

ORDINANCE NO. 20120927-046

AN ORDINANCE AMENDING ORDINANCE NO. 000406-13 RELATING TO IMPERVIOUS COVER CREDITS RETAINED BY WILLIAM S. WALTERS, III AND AUTHORIZING AMENDMENT OF THE IMPERVIOUS COVER ALLOCATION AGREEMENT CONDITIONED ON EXECUTION OF A RELEASE OF ALL CLAIMS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Part 1 of Ordinance No. 000406-13 is amended to read:

PART 1. IMPERVIOUS COVER CREDITS.

Except as otherwise provided in this ordinance, William S. Walters, III, Trustee, is permitted to retain the rights to 185,000 [~~335,000~~] square feet of impervious cover credits from the approximately 60.127 acres of real property purchased by the City of Austin and located southwest of the intersection of Capital of Texas Highway South (Loop 360) and MoPac.

PART 2. Part 2(2) of Ordinance No. 000406-13 is amended to read:

- (2) William S. Walters, III, Trustee, may allocate the remaining 25,000 [~~175,000~~] square feet of impervious cover credits to any development located inside the desired development zone, as described in Section 25-1-21 of the City Code and as it exists on April 10, 2000, if:

PART 3. Part 2(3) of Ordinance No. 000406-13 is deleted.

PART 4. Part 6 of Ordinance No. 000406-13 is renumbered as Part 7, and a new Part 6 is added to read:

PART 6. DEVELOPMENT FEE CREDIT

William S. Walters, III, Trustee, is granted a development fee credit in the amount of five hundred thousand dollars (\$500,000.) The development fee credit may be used for any development located within the desired development zone, as defined in City Code Section 25-1-21 as it exists on September 27, 2012, as payment for the following fees:

- (1) site plan fees,
- (2) building plan review and permit fees,
- (3) electrical permit review and permit fees,

- Any development fee credit not used by April 10, 2017 shall expire on that date.

PART 6. Parts 1 through 5 of this ordinance take effect upon the execution of an agreement between William S. Walters and the City of Austin releasing all claims between the parties arising out of the passage of Ordinance No. 000406-13 and the real estate transaction described and referenced in Part 1 of that ordinance. For Parts 1 through 5 of this ordinance to become effective, execution of such release must occur within ninety (90) days of the adoption of this ordinance.

PASSED AND APPROVED

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EXHIBIT A

FIRST AMENDMENT TO IMPERVIOUS COVER ALLOCATION AGREEMENT

This First Amendment to Impervious Cover Allocation Agreement ("Amendment") is made and executed as of _____, 2012 by and between William S. Walters, III, Trustee ("Walters") and the City of Austin ("City").

RECITALS

A. Walters and the City entered into that certain Impervious Cover Allocation Agreement ("Original Agreement") dated April 11, 2000.

B. Walters and the City desire to amend the Original Agreement to replace remaining impervious cover allocations with development fee credits and a one time cash payment.

NOW, THEREFORE, for and in consideration of the premises and the agreements set forth in this Amendment, Walters and the City hereby agree to the following Amendments to the Original Agreement.

A. Section 1 of the Original Agreement is amended to change the number of square feet of impervious credits transferred off the Friesenhahn Property from 335,000 square feet to 185,000 square feet.

B. Section 1 (b) of the Original Agreement is amended to change the number of impervious credits remaining from 175,000 to 25,000.

C. Sections 2, 3, and 4 of the Original Agreement are *renumbered* as Sections 3, 4, and 5.

D. A new Section 2 is added to read:

2. Development Fee Credit. Walters is granted a development fee credit in the amount of five hundred thousand dollars (\$500,000). This development fee credit may be used by Walters for any development within the City's desired development zone, as defined in City Code Section 25-1-21 as it exists on September 27, 2012. To use the development fee credit, Walters must provide written notice of the amount of credit to be used and the amount of credit remaining to the director of the City's Planning and Development Review Department, or its successor department. *The development fee credit may be used as payment for the following City fees:*

- (a) site plan fees,
- (b) building permit review and permit fees,
- (c) electrical permit review and permit fees,
- (d) plumbing permit review and permit fees, and
- (e) mechanical permit review and permit fees.

Development fee credit not used by April 10, 2017 shall expire on that date.

- E. Upon execution of this Amendment by both parties, the City shall make payment to Walters in the amount of eight hundred eighty seven thousand five hundred dollars (\$887,500.)
- F. All terms of the Original Agreement not amended by this Amendment remain in full force and effect.

IN WITNESS WHEREOF, Walters and the City have executed this Amendment to the Impervious Cover Allocation Agreement as of the date first written above.

WALTERS:

William S. Walters, III, Trustee

THE CITY OF AUSTIN

Sue Edwards, Assistant City Manager

APPROVED AS TO FORM:

City of Austin Law Department